

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Implementation of the Local)
Competition Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-98

**REPLY COMMENTS OF PAGING NETWORK, INC.
ON NUMBER ADMINISTRATION**

PAGING NETWORK, INC.

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Summary

With the continued growth in the demand for telephone numbers that is likely, area codes in many urban areas will become more ambiguous and less significant. A continued use of 7-digit local dialing will consequently result in caller confusion as area codes shrink and become less meaningful. This, coupled with the effects of number portability, are likely to result in 10- or 11-digit local dialing in many metropolitan areas of the country. Resistance to 10 or 11-digit dialing has been the major source of public objections to all-service overlays. Once the public has become accustomed to it, however, future rounds of NXX code relief can be achieved with no more inconvenience to the public than the addition of a new telephone exchange.

It can also be achieved without any likely adverse effect on competition. Competitive local exchange carrier objections to overlays are based on the greater access that a local exchange carrier has to the more familiar numbers from an existing area code. Public acceptance of 10 or 11-digit dialing will largely eliminate any such advantage, and eliminate the justification for a split preference in order to promote CLEC entry. Any such preference should thus be limited in time and in no event be continued after the implementation of number portability.

Any split preference should be secondary, moreover, to the more essential objective of making NXX codes available on a

timely basis. Whenever a split cannot be implemented without the risk of NXX code shortages, or implementation discrimination, an overlay should be automatically implemented, subject to a possible later conversion to a split.

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Paging Network, Inc. ("PageNet"), by its undersigned counsel, pursuant to paragraph 290 of the Commission's Notice of Proposed Rulemaking released April 19, 1996 ("NPRM"), hereby replies to several comments submitted in this rulemaking proceeding on the question of the appropriate state role in numbering administration (NPRM ¶¶254-58).

I. Any Preference Given To The Use Of Splits Should Be Time Limited And Subject To The Requirements Of Timely Relief And Even Handed Implementation

Several competitive local exchange carriers ("CLECs") agree with PageNet that state commission's should be delegated well defined jurisdiction over NPA numbering relief plans, but with a somewhat different emphasis as to the standards that should govern state review of such plans. They urge the Commission to establish in one form or another a preference for splits. They contend that overlays are inherently anticompetitive largely based on their contention that overlays give the dominant local exchange carriers ("LECs") a competitive advantage because overlays require CLECs to compete primarily with the less familiar overlay numbers. This is because the new overlay

numbers are assigned for new growth, permitting the LEC's subscribers to retain their old numbers from the more familiar area code and because the relatively low fill factors of most LEC NXX codes give them a supply of old numbers with which to compete for new business.

Cox Communications, Inc. ("Cox"), for example, states that overlays in general should be a "last resort" and "should be flatly prohibited . . . until [number] portability is implemented."¹ Teleport Communications Group, Inc. ("Teleport"), would have the Commission declare overlays unacceptable altogether.² MFS Communications Company, Inc. ("MFS") insists that "an overlay should be permitted only if every LEC authorized to operate within the Numbering Plan Area can receive at last one NXX code for each of its exchange areas from the original area code."³ MCI Telecommunications Corporation ("MCI") would more simply establish a preference for splits and require, inter alia, that all remaining NXX codes in the existing NPA be assigned to competing carriers.⁴

¹ See Comments of Cox Communications, Inc., dated May 20, 1996, at 3 ("Cox Comments").

² See Comments of Teleport Communications Group, Inc., dated May 20, 1996 at 7 ("Teleport Comments").

³ See Additional Comments of MFS Communications Company, Inc., dated May 20, 1996, at 8 ("MFS Comments").

⁴ See Comments of MCI Telecommunications Corporation, dated May 20, 1996, at 11-12 ("MCI Comments").

PageNet would not object to a time limited preference for splits, but only where splits can be implemented without the risk of NXX code shortages and implementation discrimination. In the long run, though, particularly in rapidly growing parts of the country where the "shrinking area code syndrome" is threatening to make new area codes meaningless and largely confusing,⁵ overlays offer a much more sensible approach to number relief. Ambiguously defined area codes and number portability are almost certain, in PageNet's view, to force uniform 10- or 11-digit local dialing in most parts of the country within the foreseeable future.⁶ That will eliminate the primary public objection to overlays, which has largely been triggered by the prospects of 10- or 11-digit dialing in the typical overlay proposal.⁷ Once the public has accepted 10- or 11-digit dialing, additional rounds of number relief can be implemented with no greater

⁵ See PageNet's Separate Comments on Number Administration, dated May 20, 1996, at 20-23 ("PageNet Comments").

⁶ Indeed, Bellcore has already recognized that the industry is moving to uniform 1+10 digit dialing. See BOC Notes on the LEC Networks -- 1994, Section 3 at 3-19.

⁷ Another frequent criticism of overlays has been the novelty of "mixing" area codes. In the past, though, the public has accepted in-time transitions to dialing itself, which generally began with 4-digit dialing and then later an increase of 4-digit dialing to 7-digit dialing. Ten or 11-digit dialing is simply a natural consequence of increased competition and innovation within the telecommunications industry which has greatly increased the demand for numbering resources in recent years. PageNet believes that the public will generally understand that this is a relatively small price that must be paid for the benefits of a more sophisticated choice of telecommunications services.

inconvenience to the public than the addition of a new telephone exchange is today. There will be no need for any further number changes or fractious area code boundary disputes.

Public acceptance of 10- or 11-digit dialing and number portability, moreover should largely eliminate the significance of "area codes". The public is likely to simply think of numbers as 10- or 11-digit numbers and the arguable preference for any particular "area code" is likely to disappear. So long as numbering resources are made available on a first come, first served basis, no carrier or category of service should be at a competitive advantage or disadvantage regardless of the NXX codes assigned to it.

The Commission, thus should not impose an indefinite preference for splits. The competitive implications of a unequal access to old and new area code numbers is at most a transitory problem that should not be used to interfere with a more efficient long term method of providing numbering relief. At the very most, any preference for splits should be eliminated once a permanent method of providing number portability has been implemented.

A preference for splits, moreover, should never be permitted to override the more essential objective of the Ameritech Order, which is to assure that numbering resources are made available on

a timely basis.⁸ Overlays, as the CLECs generally concede expressly or implicitly, can be modified to address competitively based objections, and they can be implemented quickly without the risk of NXX code shortages.⁹ Splits, though, as painfully demonstrated in Arizona, Florida, Illinois, Texas and elsewhere, cannot always be implemented without creating such shortages and the resulting need for technology based discrimination in their implementation.¹⁰ That is because splits, unlike overlays, ordinarily require a period of permissive dialing and number aging before they increase the supply of NXX codes.

These problems, moreover, disproportionately impact wireless carriers. Wireline carriers, for example, ordinarily can make do in periods of NXX code exhaust because of their ability to use numbers from lightly filled wire centers. NXX code fill factors for wireless carriers, in contrast, are typically 90% and higher. A shortage of NXX codes thus very quickly limits the ability of wireless carriers to meet the demand for their service. The same is not true for wireline carriers. They generally have at least one NXX code for each rate center and some of those tend to be very lightly filled.

⁸ See *In re Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, Declaratory Ruling and Order, FCC, IAD File No. 94-102 at 19 (released January 23, 1995) ("Ameritech Order").

⁹ See PageNet Comments at 17, n.19.

¹⁰ See PageNet Comments at 11-19.

State commissions, moreover, have often subjected wireless service to discrimination in dialing and other requirements in their attempts to implement a split in an area code that has already reached, or nearly reached, the point of NXX code exhaust.¹¹ In the 305/954 split of the Miami-Fort Lauderdale metropolitan area, for example, mandatory dialing was required for pagers several months before either wireline or cellular service.¹² The anticompetitive consequences included a 3-digit dialing differential period, a flash cut to 7-digit dialing and an evolving need to be familiar with four separate factors in order to complete a call to a pager successfully at any given time.¹³

Notwithstanding any preference the Commission might establish for splits, that preference should be conditioned on the ability of the state commission, the code administrator and the affected carriers to implement a split without NXX code shortages and without discrimination during its implementation. That requires ample time for the development of a competitively neutral relief plan; a resolution of any disputes as to any such plan, including as to the split boundary; state commission

¹¹ *Id.*

¹² See *In re Petition for Approval of Numbering Plan Area Relief for 305 Area Code by BellSouth Telecommunications, Inc., d/b/a/ Southern Bell Telephone and Telegraph Company*, Florida Public Service Commission Docket No. 941272-TL, Final Order at 5 (issued August 23, 1995) ("305 Order").

¹³ See PageNet Comments at 14.

review; switch translation work; and a period for permissive dialing and number aging.

The adoption of triggers, as proposed by PageNet,¹⁴ that would require the automatic implementation of an overlay is one means by which the Commission could assure that delays in relief planning and dispute resolution would not operate to deprive carriers of NXX codes or subject them to discrimination in order to implement a split after an area code has already reached the point of NXX code exhaust. For the reasons stated in PageNet's Comments (at 10-11), that in most circumstances, would not prevent the subsequent conversion of the overlay to a split and it would avoid the need to ration NXX codes, or otherwise place any form of telecommunications service that requires access to the public switched telephone network at a competitive disadvantage.

The Commission might also take action to reduce the risk of NXX code shortages by directing code administrators to initiate relief planning in every NPA in which they forecast the exhaust of NXX code within the next three years. For every NPA in which a code administrator projects exhaust within more than three years, the Commission might further order that that projection be reviewed by an independent third party with the authority to collect projections from all existing and potential code holders,

¹⁴ See PageNet Comments at 9-11.


including CLECs,¹⁵ and to assure the confidentiality of those individual firm projections. The code administrator could be required to initiate relief planning whenever a revised forecast indicates that the projected exhaust date is already in fact within three years, or as soon as that point in time is reached.

II. Conclusion

Any preference established for splits in relieving NXX code exhaust should be limited in time and in no event continued after the implementation of number portability. Notwithstanding any such preference, moreover, that preference should be secondary to a requirement that NXX codes be made available on a timely basis and relief plans implemented without discrimination.

Respectfully submitted,

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¹⁵ Existing industry NXX code assignment guidelines do not require potential code holders to supply forecasts of their projected demand. Industry Carriers Compatibility Forum, Central Office Code (NXX) Assignment Guidelines (4/7/95) at § 6.4.1 ("Industry Assignment Guidelines").